

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF WEST VIRGINIA
CHARLESTON

JOSEPH W. DICKEL,

Plaintiff,

v.

Case No. 2:07-cv-00762

MICHAEL J. ASTRUE,

Commissioner of Social Security,

Defendant.

PROPOSED FINDINGS AND RECOMMENDATION

By Order entered October 21, 2009 (docket # 5), the undersigned denied, without prejudice, Plaintiff's Application to Proceed Without Prepayment of Fees and Costs, and invited Plaintiff to file an updated Application. As recited in that Order, this case was filed by Plaintiff, but overlooked by the undersigned until the summer of 2009. At that point, court staff made repeated attempts to communicate with Plaintiff, without success. It appears to the court that Plaintiff has lost interest in pursuing this appeal of the denial of Social Security benefits. The October 21 Order was mailed to Plaintiff's address and was not returned by the United States Postal Service.

In light of Plaintiff's failure to take any other action indicating an interest in prosecuting this action, the undersigned proposes that the presiding District Judge **FIND** that he has failed to prosecute.

It is respectfully **RECOMMENDED** that this action be dismissed without prejudice for failure to prosecute.

Plaintiff is notified that this Proposed Findings and Recommendation is hereby **FILED**, and a copy will be submitted to the Honorable Joseph R. Goodwin, Chief United States District Judge. Pursuant to the provisions of Title 28, United States Code, Section 636(b)(1)(B), and Rules 6(d) and 72(b), Federal Rules of Civil Procedure, Plaintiff shall have fourteen days (filing of objections), and then three days (service/mailling), from the date of filing this Proposed Findings and Recommendation within which to file with the Clerk of this court, specific written objections, identifying the portions of the Proposed Findings and Recommendation to which objection is made, and the basis of such objection. Extension of this time period may be granted for good cause shown.

Failure to file written objections as set forth above shall constitute a waiver of de novo review by the district court and a waiver of appellate review by the circuit court of appeals. Snyder v. Ridenour, 889 F.2d 1363, 1366 (4th Cir. 1989); Thomas v. Arn, 474 U.S. 140, 155 (1985); Wright v. Collins, 766 F.2d 841, 846 (4th Cir. 1985); United States v. Schronce, 727 F.2d 91, 94 (4th Cir. 1984). Copies of such objections shall be served on Chief Judge Goodwin.

The Clerk is directed to file this Proposed Findings and Recommendation and to mail a copy of the same to Plaintiff by regular mail and by certified mail, return receipt requested.

December 23, 2009
Date

Mary E. Stanley
Mary E. Stanley
United States Magistrate Judge